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**TO:**

**Name:** Group Art Unit 3764  
Examiner Michael Brown

**Firm:** U.S. Patent & Trademark Office

**Fax No.:** 703-872-9306

**Subject:** U.S. Patent Application No. 09/605,001

Gary Karlin Michelson

Filed: June 27, 2000

APPARATUS AND METHOD OF INSERTING  
SPINAL IMPLANTS

Attorney Docket No. 101.0044-04000

Customer No. 22882

Confirmation No.: 5171

**FROM:**

**Name:** Thomas H. Martin, Esq.

**Phone No.:** 330-877-2277

**No. of Pages (including this):** 2

**Date:** October 18, 2004

**Confirmation Copy to Follow:** NO

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PATENT  
Attorney Docket No. 101.0044-04000  
Customer No. 22882

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: ) Confirmation No.: 5171  
Gary Karlin Michelson )  
Serial No.: 09/605,001 ) Group Art Unit: 3764  
Filed: June 27, 2000 ) Examiner: M. Brown  
For: APPARATUS AND METHOD OF )  
INSERTING SPINAL IMPLANTS )

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Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

COMMUNICATION

On July 3, 2001, Applicant added claims 105-129 to the present application and requested an interference under 37 C.F.R. § 1.607 with claims 1-3 and 5-26 of U.S. Patent No. 6,083,225 issued to Winslow et al. On September 22, 2004, the Office mailed a Notice of Allowance allowing claims 105-129. Accordingly, Applicant submits that claims 105-129 are *prima facie* in condition for interference.

Applicant respectfully brings to the attention of the Office that the present application must be withdrawn from issue under 37 C.F.R. § 1.313(a) so that interference proceedings may be initiated. According to MPEP § 1308(II), the director may withdraw an application on his or her own initiative. The procedure outlined in MPEP § 1308(II)(1)(A) to (D) is applicable to the present situation as step (D) specifically mentions withdrawing an application from issue to "initiate interference proceedings."

Respectfully submitted,

MARTIN & FERRARO, LLP

Dated: October 18, 2004

By: Thomas H. Martin  
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